

U.S. District Court [LIVE]
Western District of Texas (Midland)
CIVIL DOCKET FOR CASE #: 7:23-cv-00022-DC

The State of Texas v. United States Department of Health and Human
Services et al
Assigned to: Judge David Counts
Cause: 05:702 Administrative Procedure Act

Date Filed: 02/07/2023
Jury Demand: None
Nature of Suit: 890 Other Statutory Actions
Jurisdiction: Federal Question

Plaintiff

The State of Texas

represented by **Amy Snow Hilton**
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Plaintiff

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V.

Defendant

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Defendant

Xavier Becerra
in his official capacity as Secretary of Health

represented by **Lisa Zeidner Marcus**
(See above for address)

and Human Services

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Jeremy S. B. Newman

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Defendant**United States Department of Health and
Human Services Office for Civil Rights**represented by **Lisa Zeidner Marcus**

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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/07/2023	<u>1</u>	COMPLAINT (Filing fee \$ 402 receipt number ATXWDC–17056259). No Summons requested at this time, filed by The State of Texas. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Civil Cover Sheet)(Hilton, Christopher) (Additional attachment(s) added on 2/8/2023: # <u>6</u> Complaint with Corrected Case Number) (jb3). (Entered: 02/07/2023)
02/07/2023	<u>1</u>	Contacted by filing attorney that case was inadvertently filed in the Austin division; Case will be copied to Midland division as noted on paperwork. (kc) (Entered: 02/07/2023)
02/07/2023	<u>2</u>	REQUEST FOR ISSUANCE OF SUMMONS by The State of Texas. <i>All Defendants</i> (Attachments: # <u>1</u> Xavier Becerra, # <u>2</u> Xavier Becerra, # <u>3</u> HHS, # <u>4</u> HHS, # <u>5</u> HHS, # <u>6</u> HHS OCR, # <u>7</u> HHS OCR, # <u>8</u> HHS OCR)(Hilton, Amy) (Entered: 02/07/2023)
02/07/2023	<u>1</u>	Case assigned to Judge David Counts. CM WILL NOW REFLECT THE JUDGE INITIALS AS PART OF THE CASE NUMBER. PLEASE APPEND THESE JUDGE INITIALS TO THE CASE NUMBER ON EACH DOCUMENT THAT YOU FILE IN THIS CASE. (jb3) (Entered: 02/08/2023)
02/08/2023	<u>3</u>	Summons Issued as to All Defendants. (jb3) (Entered: 02/08/2023)
02/10/2023	<u>1</u>	DEFICIENCY NOTICE: re <u>1</u> Complaint, Please correct header to read Midland/Odessa Division (jb3) (Entered: 02/10/2023)
02/10/2023	<u>4</u>	AMENDED COMPLAINT <i>Corrected pursuant to Court's Deficiency Notice</i> against Xavier Becerra, United States Department of Health and Human Services, United States Department of Health and Human Services Office for Civil Rights amending <u>1</u> Complaint,, filed by The State of Texas.(Hilton, Amy) (Entered: 02/10/2023)
02/21/2023	<u>5</u>	

		SUMMONS Returned Executed by The State of Texas. United States Department of Health and Human Services Office for Civil Rights served on 2/13/2023, answer due 4/14/2023. (Hilton, Amy) (Entered: 02/21/2023)
02/21/2023	<u>6</u>	SUMMONS Returned Executed by The State of Texas. United States Department of Health and Human Services served on 2/10/2023, answer due 4/11/2023. (Hilton, Amy) (Entered: 02/21/2023)
02/21/2023	<u>7</u>	SUMMONS Returned Executed by The State of Texas. United States Department of Health and Human Services Office for Civil Rights served on 2/10/2023, answer due 4/14/2023. (Hilton, Amy) (Entered: 02/21/2023)
02/21/2023	<u>8</u>	SUMMONS Returned Executed by The State of Texas. Xavier Becerra served on 2/10/2023, answer due 4/11/2023. (Hilton, Amy) (Entered: 02/21/2023)
02/21/2023	<u>9</u>	SUMMONS Returned Executed by The State of Texas. (Hilton, Amy) (Entered: 02/21/2023)
02/21/2023	<u>10</u>	SUMMONS Returned Executed by The State of Texas. (Hilton, Amy) (Entered: 02/21/2023)
02/24/2023	<u>11</u>	NOTICE of DEFICIENT SERVICE OF PROCESS by Xavier Becerra, United States Department of Health and Human Services, United States Department of Health and Human Services Office for Civil Rights re <u>3</u> Summons Issued (Noble–AUSA, Liane) (Entered: 02/24/2023)
02/24/2023	<u>12</u>	REQUEST FOR ISSUANCE OF SUMMONS by The State of Texas. <i>Summons to HHS</i> (Attachments: # <u>1</u> Summons to Becerra, # <u>2</u> Summons to HHS–OCR)(Hilton, Amy) (Entered: 02/24/2023)
02/27/2023	<u>13</u>	Summons Issued as to All Defendants. (jb3) (Entered: 02/27/2023)
02/28/2023	<u>14</u>	AMENDED COMPLAINT against Xavier Becerra, United States Department of Health and Human Services, United States Department of Health and Human Services Office for Civil Rights amending <u>1</u> Complaint,, filed by The State of Texas, Mayo Pharmacy, Inc.. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit)(Hilton, Amy) (Entered: 02/28/2023)
03/01/2023	<u>15</u>	NOTICE of Attorney Appearance by Ryan L. Bangert on behalf of Mayo Pharmacy, Inc.. Attorney Ryan L. Bangert added to party Mayo Pharmacy, Inc.(pty:pla) (Bangert, Ryan) (Entered: 03/01/2023)
03/02/2023	<u>16</u>	SUMMONS Returned Executed by The State of Texas. Xavier Becerra served on 2/14/2023, answer due 4/11/2023. (Hilton, Amy) (Entered: 03/02/2023)
03/02/2023	<u>17</u>	SUMMONS Returned Executed by The State of Texas. <i>Xavier Becerra, Secretary</i> (Hilton, Amy) (Entered: 03/02/2023)
03/02/2023	<u>18</u>	SUMMONS Returned Executed by The State of Texas. United States Department of Health and Human Services served on 2/14/2023, answer due 4/17/2023. (Hilton, Amy) (Entered: 03/02/2023)
03/03/2023	<u>19</u>	REQUEST FOR ISSUANCE OF SUMMONS by The State of Texas. (Attachments: # <u>1</u> Request for Summons–US DHHS–USAG, # <u>2</u> Request for Summons–US DHHS, # <u>3</u> Request for Summons–US DHHS OCR–US Atty WD, # <u>4</u> Request for Summons–US DHHS OCR–USAG, # <u>5</u> Request for Summons–US DHHS OCR, # <u>6</u> Request for Summons–Becerra–USAG, # <u>7</u> Request for Summons–Becerra–US Atty WD, # <u>8</u> Request for Summons–Becerra)(Hilton, Amy) (Entered: 03/03/2023)
03/03/2023	<u>20</u>	Summons Issued as to All Defendants. (kg) (Entered: 03/03/2023)
03/10/2023	<u>21</u>	RULE 7 DISCLOSURE STATEMENT filed by Mayo Pharmacy, Inc.. (Bangert, Ryan) (Entered: 03/10/2023)
03/15/2023	<u>22</u>	

		SUMMONS Returned Executed by The State of Texas. Xavier Becerra served on 3/9/2023, answer due 5/8/2023. (Hilton, Amy) (Entered: 03/15/2023)
03/15/2023	<u>23</u>	SUMMONS Returned Executed by The State of Texas. United States Department of Health and Human Services served on 3/9/2023, answer due 5/8/2023. (Hilton, Amy) (Entered: 03/15/2023)
03/17/2023	<u>24</u>	SUMMONS Returned Executed by The State of Texas. Xavier Becerra served on 3/10/2023, answer due 5/9/2023. (Hilton, Amy) (Entered: 03/17/2023)
03/20/2023	<u>25</u>	SUMMONS Returned Executed by The State of Texas. United States Department of Health and Human Services Office for Civil Rights served on 3/9/2023, answer due 5/8/2023. (Hilton, Amy) (Entered: 03/20/2023)
03/21/2023	<u>26</u>	MOTION to Appear Pro Hac Vice (Filing fee \$ 100 receipt number 451) by Mayo Pharmacy, Inc. (Attachments: # <u>1</u> Attachment 1, # <u>2</u> Attachment 2, # <u>3</u> Proposed Order)(jb3) (Entered: 03/21/2023)
03/22/2023	<u>I</u>	Text Order GRANTING <u>26</u> Matthew S. Bowman's Motion to Appear Pro Hac Vice. Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice Pro Hac Vice in this case must register for electronic filing with our Court within 10 days of this Order. Registration is managed by the PACER Service Center. It is further ORDERED that if Mr. Bowman has not already done so, shall immediately tender the amount of \$100.00, made payable to: Clerk, U.S. District Court, in compliance with Local Court Rule AT-1(f)(2). Entered by Judge David Counts. (This is a text-only entry generated by the court. There is no document associated with this entry.) (db) (Entered: 03/22/2023)
03/22/2023	<u>27</u>	SUMMONS Returned Executed by The State of Texas. United States Department of Health and Human Services Office for Civil Rights served on 3/17/2023, answer due 5/16/2023. (Hilton, Amy) (Entered: 03/22/2023)
03/22/2023	<u>28</u>	SUMMONS Returned Executed by The State of Texas. United States Department of Health and Human Services served on 3/17/2023, answer due 5/16/2023. (Hilton, Amy) (Entered: 03/22/2023)
03/28/2023	<u>29</u>	SUMMONS Returned Executed by The State of Texas. Xavier Becerra served on 3/17/2023, answer due 5/16/2023. (Hilton, Amy) (Entered: 03/28/2023)
05/08/2023	<u>30</u>	NOTICE of Attorney Appearance by Lisa Zeidner Marcus on behalf of Xavier Becerra, United States Department of Health and Human Services, United States Department of Health and Human Services Office for Civil Rights. Attorney Lisa Zeidner Marcus added to party Xavier Becerra(pty:dft), Attorney Lisa Zeidner Marcus added to party United States Department of Health and Human Services(pty:dft), Attorney Lisa Zeidner Marcus added to party United States Department of Health and Human Services Office for Civil Rights(pty:dft) (Marcus, Lisa) (Entered: 05/08/2023)
05/08/2023	<u>31</u>	MOTION to Dismiss <i>Amended Complaint</i> by Xavier Becerra, United States Department of Health and Human Services, United States Department of Health and Human Services Office for Civil Rights. (Marcus, Lisa) (Entered: 05/08/2023)
05/09/2023	<u>32</u>	NOTICE of Attorney Appearance by Jeremy S. B. Newman on behalf of Xavier Becerra, United States Department of Health and Human Services, United States Department of Health and Human Services Office for Civil Rights. Attorney Jeremy S. B. Newman added to party Xavier Becerra(pty:dft), Attorney Jeremy S. B. Newman added to party United States Department of Health and Human Services(pty:dft), Attorney Jeremy S. B. Newman added to party United States Department of Health and Human Services Office for Civil Rights(pty:dft) (Newman, Jeremy) (Entered: 05/09/2023)
05/10/2023	<u>33</u>	NOTICE of Attorney Appearance by Andrea Regan Dill on behalf of Mayo Pharmacy, Inc.. Attorney Andrea Regan Dill added to party Mayo Pharmacy, Inc.(pty:pla) (Dill, Andrea) (Entered: 05/10/2023)

		05/10/2023)
05/12/2023	<u>34</u>	ORDER Setting Hearing on <u>31</u> MOTION to Dismiss <i>Amended Complaint</i> : Motion Hearing set for 6/12/2023 01:30 PM in Midland before Judge David Counts. Signed by Judge David Counts. (kg) (Entered: 05/12/2023)
05/15/2023	<u>35</u>	ORDER RESetting Hearing on <u>31</u> MOTION to Dismiss <i>Amended Complaint</i> : Motion Hearing REset for 6/29/2023 01:30 PM in Midland before Judge David Counts. Signed by Judge David Counts. (kg) (Entered: 05/15/2023)
05/17/2023	<u>36</u>	Unopposed MOTION for Extension of Time to File Response/Reply by Mayo Pharmacy, Inc., The State of Texas. (Attachments: # <u>1</u> Proposed Order)(Hilton, Amy) (Entered: 05/17/2023)
05/18/2023	<u>I</u>	Text Order GRANTING <u>36</u> Plaintiffs' Unopposed Motion for Extension of Time to File Response to Defendants' Motion to Dismiss. It is ORDERED that Plaintiffs' deadline to file a response to Defendants' Motion to Dismiss is extended to May 30, 2023. Defendants' reply, if any, is extended to June 13, 2023. It is so ORDERED. Entered by Judge David Counts. (This is a text-only entry generated by the court. There is no document associated with this entry.) (db) (Entered: 05/18/2023)
05/30/2023	<u>37</u>	Response in Opposition to Motion, filed by Mayo Pharmacy, Inc., The State of Texas, re <u>31</u> MOTION to Dismiss <i>Amended Complaint</i> filed by Defendant United States Department of Health and Human Services Office for Civil Rights, Defendant United States Department of Health and Human Services, Defendant Xavier Becerra (Attachments: # <u>1</u> Exhibit Exhibit 1, # <u>2</u> Exhibit Exhibit 2)(Hilton, Amy) (Entered: 05/30/2023)
06/13/2023	<u>38</u>	REPLY to Response to Motion, filed by Xavier Becerra, United States Department of Health and Human Services, United States Department of Health and Human Services Office for Civil Rights, re <u>31</u> MOTION to Dismiss <i>Amended Complaint</i> filed by Defendant United States Department of Health and Human Services Office for Civil Rights, Defendant United States Department of Health and Human Services, Defendant Xavier Becerra (Attachments: # <u>1</u> Exhibit 1 – Pharmacy Guidance with passages highlighted)(Newman, Jeremy) (Entered: 06/13/2023)
06/21/2023	<u>39</u>	NOTICE by Xavier Becerra, United States Department of Health and Human Services, United States Department of Health and Human Services Office for Civil Rights (Attachments: # <u>1</u> Exhibit – Press release regarding closing of investigations)(Newman, Jeremy) (Entered: 06/21/2023)
06/22/2023	<u>40</u>	NOTICE of Attorney Appearance by William D. Wassdorf on behalf of The State of Texas. Attorney William D. Wassdorf added to party The State of Texas(pty:pla) (Wassdorf, William) (Entered: 06/22/2023)
06/26/2023	<u>41</u>	NOTICE by Mayo Pharmacy, Inc. re <u>39</u> Notice (Other), (Attachments: # <u>1</u> Exhibit Exh 1 White House Fact Sheet)(Dill, Andrea) (Entered: 06/26/2023)
06/29/2023	<u>42</u>	Minute Entry for proceedings held before Judge David Counts: Motion Hearing held on 6/29/2023 re <u>31</u> MOTION to Dismiss <i>Amended Complaint</i> filed by United States Department of Health and Human Services Office for Civil Rights, United States Department of Health and Human Services, Xavier Becerra (Minute entry documents are not available electronically). (Court Reporter Tamara Ross)(slt) (Entered: 06/29/2023)
06/30/2023	<u>43</u>	NOTICE of Supplemental Authority by Mayo Pharmacy, Inc. (Bowman, Matthew) (Entered: 06/30/2023)
07/12/2023	<u>44</u>	Memorandum Opinion. Signed by Judge David Counts. (kg) (Entered: 07/12/2023)